

Rep. No. 620.

HOUSE OF REPRESENTATIVES.

MIAMI INDIANS.

MAY 17, 1848.

Laid upon the table.

Mr. BARRINGER, from the Committee on Indian Affairs, made the following

REPORT:

The Committee on Indian Affairs, to whom was referred a joint resolution of the legislature of Indiana, asking Congress to pay to the Miami Indians, remaining in the State, their just and equal share of the annuities belonging to the Miami tribe of Indians by treaty stipulations, having considered the same, report:

That, for the reasons set forth in the accompanying letters from the office of the Commissioner of Indian Affairs, they believe that it would be a violation of these treaty stipulations to pay any portion of the annuities to any but the tribe that has removed west, except where express provision is made in the treaty for the benefit of those who are specially named; and the committee further believe that if Congress had the power to make such payment; other than to the "tribe," which is understood only to embrace those who have removed, as required by the treaties, it would be inexpedient and unwise, and in contravention of the best policy of the government, and injurious to the best interests of the Indians themselves. The accompanying papers are made part of this report. The committee ask to be discharged from the further consideration of the subject.

Resolutions of the legislature of Indiana, relative to the payment of annuities to the Miami Indians.

A JOINT RESOLUTION relative to the Miami Indians.

Whereas a few of the Miami Indians who own lands in fee simple in the State of Indiana, have chosen to remain upon their lands, instead of removing west of the Mississippi; and whereas the lands of said Indians are taxed in like manner as other citizens are taxed; and whereas the decision of the Commissioner of Indian Affairs deprives said Indians of their share of annuities by treaty stipulations: Therefore,

Be it resolved by the general assembly of the State of Indiana, That our Senators in Congress be instructed, and our Representatives requested, to use their exertions to procure an act of Congress authorizing and requiring the Commissioner of Indian Affairs to pay to the said Indians who remain in Indiana their just and equal share of annuities belonging to said tribe by treaty stipulations: said annuities to be paid at Fort Wayne, or some other convenient point near the Wabash river.

Be it further resolved, That his excellency the governor be requested to transmit to each of our Senators and Representatives in Congress a copy of the foregoing joint resolution.

WILLIAM A. PORTER,
Speaker of the House of Representatives.

PARIS C. DUNNING,
President of the Senate.

Approved, January 29, 1848.

JAS. WHITCOMB.

STATE OF INDIANA, ss.

I, John H. Thompson, secretary of state for the State aforesaid, certify that the foregoing is an entire and correct copy of the aforesaid, entitled joint resolution, taken from the original enrolment thereof, as the same remains on file in my office.

In testimony whereof, I have hereunto set my hand, and [in s.] affixed the seal of State, at the city of Indianapolis, the 7th day of February, A. D. 1848.

JOHN H. THOMPSON,
Secretary of State.

WAR DEPARTMENT, OFFICE INDIAN AFFAIRS,
April 10, 1848.

SIR: I have the honor to acknowledge the receipt of your letter of the 7th instant, enclosing a joint resolution of the legislature of Indiana, which is herewith returned.

This resolution sets forth that a few of the Miami Indians own lands in fee simple in Indiana, upon which they have chosen to remain; that they are taxed like other citizens, and that, by a decision of this office, they are deprived of their share of the annuities due the tribe under treaty stipulations, in consideration of which, Congress is asked to pass to said Indians their just and equal share of the annuities at Fort Wayne, or some other convenient point near the Wabash river. And you ask if the Miamies, remaining in Indiana, have applied for their proportionate share of the annuities under the treaty of 1840, to be furnished with the action of this office upon the subject, and the reason for the rejection of their application.

In compliance with your request, I transmit herewith a copy of a report to the Secretary of War, dated May 22, 1844; and an extract from a letter of July 1, 1846, to Messrs. Lafontaine and other Miami Indians, containing the decision of this office upon the subject.

By the treaty and a joint resolution of March 3, 1845, certain members of the tribe were permitted to remain and receive their proportion of the annuities in Indiana, which is regularly paid to them, though, as this office has no agent there, this is attended with expense and much inconvenience. According to the last payment roll, these Indians number one hundred and sixty-one. All others were bound to remove; the government had no discretion to exempt them from this obligation, and of course none, as you will perceive from the report of my predecessor, to pay any portion of the annuities in Indiana, except to those authorized by the treaty and joint resolution to remain.

I agree with my predecessor as to the impolicy of complying with such applications, and I respectfully refer you to my late annual report for the considerations, which, in my judgment, are in favor of such a course of policy as would induce all those remaining in Indiana to remove west. Indeed, it may well be considered whether the joint resolution of 1845 was not an infraction of the treaty, as it made a material modification in that instrument, without the consent of all the parties thereto; and the power of Congress to do this may well be questioned. The remaining of those permitted to do so, operates injuriously upon those who have been removed. They very naturally prefer their old homes, and think it unjust, that, while they were compelled to remove, others were permitted to remain, no more entitled to do so than they. To enlarge the number will increase their discontent, and lead to expectations, that, by continuing to manifest dissatisfaction, still others will be permitted to return and remain, which will tend to keep them unsettled, and thus to defeat the beneficial policy adopted by the government for their improvement and welfare.

Very respectfully, your obedient servant,

W. MEDILL.

Hon D. M. BARNETT,

Chairman Com. on Ind. Affairs,

House of Representatives.

WAR DEPARTMENT,
Office Indian Affairs, May 22, 1844.

SIR: The note of the Hon. A. Kennedy to you, with the letter to him from P. F. Randall, of 25th ultimo, concerning the removal of Jack Hackley and others, have been referred to this office.

The memorialists, half breed Miami Indians, I presume, request to be permitted to remain on reserves assigned to them by treaty, and to receive their proportion (they being recognized members of the Miami tribe) of the annuities, &c., at Fort Wayne, in Indiana. Jack Hackley and Ann F. Fonard, formerly Ann F. Hackley, were reservees of land, under the treaty of 23d October, 1826. Peter Guion, under the same treaty and the treaties of 1834 and 1838, and the residue of the memorialists are supposed to be the legal representatives of Maria Christiana De Rome, a half blood, for whom a tract of land was reserved by the treaty of 23d October, 1826. There is, however, no permission to remain east and participate in the annuities secured to them. There are two families and a small band to whom the privilege of remaining in Indiana, and being paid their shares of the annuities at Fort Wayne, is secured; these are the families of John B. Richardville, late chief, of Francis Godfrey, the late war chief, and the band of Mato-simin, for whose use a tract of land was granted by treaty of 28th November, 1840, to Me-shing-go-me-zea.

It is, therefore, my opinion that, although these Indians cannot be forced to go to the west, living, as I understand, they do, on land granted to them by treaty, so no engagement ought to be made to pay them their shares of the annuities if they choose to remain east; in fact, I do not think we have the legal power to do so; the rest of the tribe are bound to go west, and we have bound ourselves to pay the annuities of the tribe west, except in the cases specially provided by the treaty. If we could do it, I would advise against it as contravening the policy of the government to remove all the Indians west, and as imposing great labor and trouble in the division and payment of annuities to Indians widely scattered.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

Hon. WILLIAM WILKINS,
Secretary of War.

Extract of a letter from the Commissioner of Indian Affairs, dated July 1, 1846, to Francis Lafontaine, Pish-a-wah, Me-ge-quah, Pen-go-to-mah, Ita-pa-lippoo, of the Miami tribe of Indians, viz:

"With respect to the subject of your fourth and fifth interrogatories, you are correctly informed that the department has no power to permit any of the class of persons to remain to whom you refer. The treaty and the joint resolution of Congress, of

March 3d, 1845, stipulate who are to remain; the rest, the treaty imperatively requires, shall remove. The department has no discretion in the matter. The Indians have had more than five years to prepare for removal, and the persons referred to have thus already had ample time to apply to the legislature of Indiana for authority to dispose of their lands, or for the passage of such a law on the subject as, under the circumstances, might be deemed just and requisite. The time for removal has arrived; the contractors are prepared and on the ground, and no further delay can be sanctioned. It is believed that it would be much better if every member of the tribe would remove, than it would be to authorize an increase in the numbers of those stipulated to remain. The impression of the department is, that, if these, and any of those to whom reservations were granted, who have not disposed of them, the number must be small. Whatever the number, however, if they will peaceably and quietly remove with the rest, as required by the treaty, the department has no objections to take any measures that may seem proper, in order to obtain for them, at the earliest practicable period, a just compensation for their reservations. But, and in order to undertake this, it will be necessary that there be furnished a list of their names on which the reservations should be designated."